



DEPARTMENT OF VETERANS AFFAIRS
National Acquisition Center
PO Box 76
Hines IL 60141

June 5, 2001

In Reply Refer To:
90N

Re: Diversion of product under the Federal Supply Schedule (FSS) Program

Dear FSS User:


It has recently come to our attention that some Federal Supply Schedule (FSS) ordering activities may be diverting product outside of the system. This informational letter is to **reiterate** and provide an outline of the responsibilities of ordering activities under the FSS Program.

Products ordered under FSS contracts are intended solely for the use of authorized ordering activities in carrying out their Federal missions; they are not intended for resale or barter. Any transfer of FSS contract items that does not serve the ordering activity's defined mission, as well as any transfer for the purpose of generating a profit on the difference between FSS prices and commercial prices (such as average wholesale price "AWP"), is an improper diversion of Federal supplies and a violation of Federal Criminal laws.

Under the FSS program, an FSS contractor may require an authorized ordering activity to disclose the intended use of ordered items before commencing delivery. The FSS contractor is not required to fill an FSS order (or that portion of an order) that investigational facts suggest will be diverted into the commercial market or otherwise be diverted from usage by authorized FSS ordering activities. However, the FSS contractor may not unreasonably delay filling an FSS order, pending its investigation of the intended use of the items ordered. Based on investigational facts that suggest a pattern of diversion has occurred, an FSS contractor may elect not to fill indirect orders of an activity through an authorized Government Pharmaceutical Prime Vendor (PPV) or Medical/Surgical Distributor and, instead, accept only direct orders.

Thank you for your cooperation in ensuring that the system is properly implemented. If you have any questions concerning pharmaceuticals, diagnostic reagents, dental, x-ray, or mobility devices, please contact Carole O'Brien at (708) 786-4957. If you have any questions regarding medical supplies and equipment or clinical analyzers cost-per-test, you may contact Paul Skelman at (708) 786-5247.

Sincerely,


George T. Patterson
Executive Director